

*Duplicate<sup>3</sup>*  
prepared by steeping oatstraw in magnetized water.--

Copies of specification pages 12-14 with the changes indicated thereon as well as clean copies of the claims pages 12-14, amended in accordance with the claim amendments described above, are enclosed.

**REMARKS:**

As the Examiner can see, the claims have been amended as discussed below.

Specifically, the instant invention is directed to an extract prepared by steeping oatstraw in boiling water. In some embodiments, the water is magnetized water which enhances both the stability and absorption properties of the resulting lotion, as discussed below.

Applicants note that claim 23 was withdrawn from consideration. This claim has been cancelled.

Claims 10 and 11 were rejected under 35 USC 112. As noted above, these claims have been cancelled.

The amendment of claims 10, 11 and 23 is made without prejudice and Applicants have no intention at this time to abandon that subject matter. Applicants hereby expressly reserve right to pursue the same or similar subject matter in a continuing application.

Claims 1 and 2 were rejected under 35 USC 102(b) as anticipated by Weed. The Examiner has noted that Weed discloses "hot water extracts of oatstraw. The extracts are in the form of oatstraw baths".

As the Examiner will appreciate, this is not applicant's invention. Specifically, the water temperature of baths are typically 35-45°C. That is, water above these temperatures will scald or burn individuals who come in contact with same. This is not applicant's invention, which involves steeping the oatstraw in boiling or near boiling water, as discussed on page 7, lines 8 and 9 of the instant application, and then preparing a lotion from the extract. As the Examiner will appreciate, the specific compounds, their concentration and their stability differs when extracted from

oatstraw at 40°C versus approximately 100°C. As the Examiner can see, claims 1, 8, 17, 18 and 20 have been amended to more clearly state that boiling or near boiling water is used. In addition, applicant respectfully notes that adding a compound to bath water does not teach preparing a lotion for topical application from the compound by steeping the compound in hot water.

Applicant further notes that the Examiner has stated that "for purposes of examination, water as disclosed by Weed is considered to be inherently equivalent to 'filtered and magnetized water' as claimed in claim 2". Applicant respectfully notes that this is not the case. Specifically, applicant notes that when water passes through a magnetic field, the hydrogen ions and dissolved minerals in the water become charged. This charge causes a temporary separation of these minerals and molecular water clusters resulting in water with increased clarity and softness, and reduced surface tension. This in turn enhances the physical characteristics of the lotion, such as conductivity, viscosity, softness and in turn facilitating ease of application, rate/depth of absorption and moisturization quality without leaving a film.


As the Examiner can see, claim 25 has been added, wherein the oatstraw is steeped in magnetized water. It is held that in view of the arguments forwarded above, this claim is also distinguished over Weed. Support for this claim may be found throughout the specification and this claim is essentially a combination of previous claims 1 and 2.

The rejections to claims 1-9, 17-22 and 24 under 35 USC 103 as unpatentable over the combination of Weed and US Patent 4,690,818 and US Patent 5,397,497 are believed to be overcome by the amendments and arguments discussed above.

In view of the amendments to the claims and the arguments forwarded above, further and more favorable consideration is respectfully requested.

Respectfully submitted

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CERTIFICATION OF FACSIMILE TRANSMISSION

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MICHAEL WILLIAMS



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